

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

KERRY L. BIRKHOLZ,

Defendant.

Case No. 18-CR-

[21 U.S.C. §§ 841(a)(1) and 846; 18 U.S.C.
§§ 922(d), and 2]

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

2018 DEC 18 P 12:37

STEPHEN C. DRIES
CLERK

18-CR-236

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES:

1. Beginning by at least April 2018, and continuing until on or about August 27, 2018, in the State and Eastern District of Wisconsin and elsewhere,

KERRY L. BIRKHOLZ

knowingly and intentionally conspired with persons known and unknown to the grand jury, to possess with the intent to distribute and to distribute controlled substances, in violation of Title 21, United States Code, Section 841(a)(1).

2. The amount of controlled substances attributable to the defendant as a result of her own conduct, and the conduct of other co-conspirators reasonably foreseeable to her, is 100 grams or more of a mixture and substance containing a detectable amount of heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 846 and 841(b)(1)(B).

COUNT TWO

THE GRAND JURY FURTHER CHARGES:

On or about August 27, 2018, in the State and Eastern District of Wisconsin,

KERRY L. BIRKHOLZ

knowingly possessed, with intent to distribute, a mixture and substance containing heroin, a Schedule I controlled substance.

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

COUNT THREE

THE GRAND JURY FURTHER CHARGES:

1. Between on or before July 11, 2018, and August 27, 2018, in the State and Eastern District of Wisconsin,

KERRY L. BIRKHOLZ

transferred firearms to a person who, as Birkholz knew and had reasonable cause to believe, had been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, namely, by transferring a Kimber 9-millimeter handgun, bearing serial number KRE23590, and a Ruger .22-caliber handgun, bearing serial number 36717747, to Joshua J. Klein.

2. At the time of transfer, Klein had been previously convicted of the following crimes punishable by imprisonment for a term exceeding one year:

- a. Possession with intent to distribute a controlled substance, possession of firearms by a person previously convicted of a misdemeanor crime of domestic violence, and possession of firearms in furtherance of drug trafficking crimes, in Eastern District of Wisconsin Case No. 04-CR-214; and
- b. Possession with intent to deliver a controlled substance, in Fond du Lac County Case No. 2016CF249.

All in violation of Title 18, United States Code, Sections 922(d)(1) and 924(a)(2).

FORFEITURE NOTICE

1. Upon conviction of an offense in violation of Title 21, United States Code, Sections 846 and 841(a)(1), as set forth in Counts One and Two of this indictment, all property of the defendant constituting or derived from any proceeds the defendant obtained, directly or indirectly, as a result of such offense, is subject to forfeiture to the United States pursuant to Title 21, United States Code, Section 853.

2. Upon conviction of an offense in violation of Title 21, United States Code, Sections 846 and 841(a)(1), as set forth in Counts One and Two of this indictment, and upon conviction of an offense in violation of Title 18, United States Codes, Section 922(d), as set forth in Count Three of this indictment, all property of the defendant used, or intended to be used to commit or facilitate the commission of such offense, is subject to forfeiture to the United States pursuant to Title 21, United States Code, Section 853, Title 18, United States Code, Section 924(d), and Title 28, United States Code, Section 2461(c).

The property subject to forfeiture includes, but is not limited to:

- a. a Kimber 9-millimeter handgun, bearing serial number KRE23590;
- b. a Ruger .22-caliber handgun, bearing serial number 36717747;
- c. a Taurus 9-millimeter handgun, bearing serial number PT111G2A; and
- d. all 9-millimeter ammunition seized from the defendant on August 27, 2018.


3. If any of the property described above, as a result of any act or omission by a defendant: cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third person; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other

property which cannot be subdivided without difficulty, the United States of America shall be entitled to forfeiture of substitute property, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

A TRUE BILL:


FOREPERSON

Dated: 12/18/18


MATTHEW D. KRUEGER
United States Attorney